

REMARKS

Claims 1 – 8 and 11 – 14 are now pending in the application. Claims 9 and 10 have been cancelled. Claims 11 – 14 have been added for substantive examination. Claims 1 – 8 stand rejected. Claims 1 and 6 have been amended. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

REJECTION UNDER 35 U.S.C. § 102

Claims 1 – 3 and 5 – 10 stand rejected under 35 U.S.C. § 102(b) as being anticipated by (U.S. Pat. No. 5,983,154) Morisawa. This rejection is respectfully traversed.

At the outset Applicant notes that claims 9 and 10 have been cancelled. As a result, this rejection as it pertains to claims 9 and 10 has been rendered moot. With regard to the remaining claims under this rejection, Applicant notes that independent claims 1 and 6 have been amended. More specifically, claims 1 and 6 have been amended to further define the relationship between a first and second drive mode. Specifically, claim 1 has been amended to recite:

wherein said first drive mode defines throttle positions that are greater than corresponding throttle positions of said second drive mode for pedal positions less than a first value and defines throttle positions that are less than corresponding throttle positions of said second drive mode for pedal positions greater than said first value.

Similarly, claim 6 has been amended to recite:

utilizing predetermined throttle position progression versus pedal travel data based on said current driveability setting, wherein a first driveability mode defines throttle positions that are greater than corresponding throttle positions of a second driveability mode for pedal

positions less than a first value and defines throttle positions that are less than corresponding throttle positions of said second driveability mode for pedal positions greater than said first value.

Applicant respectfully asserts that Morisawa does not teach or suggest a control system having throttle position progression data providing a first drive mode having throttle positions that are greater than corresponding throttle positions of a second drive mode for pedal positions less than a first value and providing throttle positions that are less than corresponding throttle positions of the second drive mode for pedal positions greater than the first value.

As best understood by the Applicant, Morisawa discloses an electronic control unit stored in advance with a plurality of shift patterns corresponding to various running modes. The running modes include a normal mode, a power mode, an economy mode and a snow mode. For the power mode, the shift line is shifted to a higher speed than the normal mode. For the economy mode, the shift line is shifted to a lower speed than the normal.

The electronic control unit of Morisawa is given functions to adjust the output (of the engine) by changing the degree of opening of the electronic throttle valve in accordance with the depression of the accelerator pedal and to change the control characteristics of the opening of the electronic throttle valve in accordance with the depression of the accelerator pedal, on the basis of the running state of the vehicle or the driving tendency of the driver. See e.g. Col. 4, lines 17 – 25. Morisawa further discloses the use of a navigation system for providing a plurality of routes corresponding to the selected mode. Morisawa is silent on the relationship of the

electronic throttle valve for a given range of pedal travel as it relates to the various running modes.

The system and method of the present invention is distinct from Morisawa. The present invention, as claimed, provides drive modes having an inverse relationship. As illustrated in FIG. 6, Modes 2 – 4 range from an increased to a decreased throttle position for the same pedal position up to a predetermined value (in this case, one inch). As pedal travel increases beyond the predetermined value, modes 2 through 4 follow an inverse relationship toward a throttle position of 100%.

Applicant respectfully asserts that new claim 11 presents allowable subject matter based on the above discussion. Specifically, claim 11 recites:

determining a user selected drive setting corresponding to a first and second drive mode; and utilizing predetermined throttle position versus pedal travel progression data based on said user selected drive setting, wherein a first drive mode defines throttle positions that are greater than corresponding throttle positions of a second drive mode for pedal positions less than a first value and defines throttle positions that are less than corresponding throttle positions of said second drive mode for pedal positions greater than said first value.

Applicant has further included new claims 12 – 14 that recite a third mode defining throttle positions that are greater than corresponding throttle positions of the first and second drive modes up to and beyond the first value. As shown in FIG. 6, Mode 1 provides a range of increased throttle positions relative to the other modes for all pedal travel.

Therefore, Applicant respectfully submits that claims 1 – 3, 5 – 8 and 11 – 14 are in condition for allowance.

REJECTION UNDER 35 U.S.C. § 103

Claim 4 is rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. No. 5,852,929 over (Morisawa) and applied to claims 1 – 3 and 5 – 10 above, and further in view of U.S. Pat. No. 6,019,702 (Ehrenhardt et al.). This rejection is respectfully traversed.

As best understood by the Applicant, Ehrenhardt discloses an elevated idle speed control cooperating with a truck having a power-take-off (PTO) device. A power-take-off device allows an engine to power supplemental devices connected to the truck (such as a hydraulic pump on a garbage truck). The engine speed is automatically varied based on the operational mode of, or power required by, the PTO device.

Ehrenhardt, alone or in combination with Morisawa, does not include a system and method having drive modes having an inverse relationship as discussed above.

Therefore, Applicant respectfully submits that claim 4 is in condition for allowance.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested.

If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (313) 665-4969. Please charge any additional fees due to Deposit Account number 07-0960.

Respectfully submitted,

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